

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 3438 OF 2002**

**IN
SUIT NO.3144 OF 2002**

Bank of Maharashtra .. Plaintiff

versus

Zuari Estate Develop.& Invest.Co Pvt.Ltd.Defendant

and

Maker Chambers III Premises Coop

Society Ltd & anr. .. Respondents

..

Mr. Pratik Seksaria with Ms.Rajni Divekar i/b Little
& Co for Plaintiff.

Mr.A.M.Vernekar for Defendant

Mr.Snehal Shah for Respondent

CORAM: D.G.KARNIK, J

DATED : 20th January 2005.

P.C:-

1. Heard learned counsel for the plaintiff, defendant and respondent no.1. None present for the respondent. The plaintiff has filed this suit against the defendant for specific performance of the alleged

agreement of sale. The defendant has denied that it is liable to execute the sale deed and has raised many defences. It is not necessary in this motion to consider the defences.

2. The suit property is situated within the limits of Brihan Mumbai Municipal Corporation. The owner/occupier of the property is liable to pay municipal taxes in respect of this property. The respondent issued a notice regarding the assessment/revision of assessment in respect of the said property. By this motion, the plaintiff-applicant seeks an injunction restraining the respondent Municipal Corporation which is not a party to the suit from assessing the property taxes. The reliefs claimed is entirely alien to the suit and cannot be granted.

3. Even otherwise, there is provision of an appeal against an assessment order. If any of the parties to the suit is aggrieved by the assessment made by the respondent it is open to it to challenge the order of assessment by means of an appeal under the Mumbai Municipal Corporation Act, 1882. In the circumstances, motion is dismissed with costs.

